

TESTIMONIAL COMPETENCY REPORT TEMPLATE

LETTER HEAD

name and surname – address – contact numbers – qualifications – professional registration

CONFIDENTIAL

TESTIMONIAL COMPETENCY REPORT

Date

1. IDENTIFYING PARTICULARS

Name and surname

Date of birth

Date of assessment

Chronological age

Grade / Level

School

Accused

Charge

Case number

Investigating officer

2. REASON FOR REFERRAL

The source of the referral is given. The purpose of the referral, as well as any specific referral questions posed, is stated.

3. ASSESSMENT HISTORY

- Collateral consultations

Provide a chronological list of (telephonic) consultations:

name and surname – reason for consultation – date

- Perusal of documentation

Provide a list of documentation perused:

name and surname of compiler of report – date

- Assessment sessions

Report on the assessment sessions pertaining to the child in chronological order:

name and surname – purpose of session – date

4. RELEVANT BACKGROUND INFORMATION

Give a concise description of the general aspects of development from birth to the present. Specific attention is given to the witness's educational and health history, and adaptive functioning at home and in the peer group. If applicable, special mention is made of the child's current emotional status and relationship dynamics.

5. COMPETENCY EVALUATION¹

5.1 Approach

The evaluation model and its rationale are provided. The method of evaluation of the components is described.

5.2 Observations

Relevant behavioural observations made of the child during the course of the assessment are noted.

5.3 Cognitive functioning

A report is given on the child's cognitive functioning at present. The results obtained by psychometric testing should be interpreted and explained in colloquial language.

¹ Van Niekerk, H. 2014. *Determining the Competency of Children with Developmental Delays to Testify in Criminal Trials*. Ch 2, 5-7.

5.4 Moral capacity

The outcome of the moral capacity evaluation is described.

5.5 Narrative ability

The child's response to the narrative practice (and episodic memory training) is reported. An informed opinion on his or her general proficiency in communication should be given.

6. DEVELOPMENTAL DELAY, DISABILITY AND/OR RELATED CONDITION(S)²

In this section the developmental challenge(s) of the child is clarified. With a view to the purpose of the report, the court is also informed of research relevant to issues of competency and/or giving evidence, if this is available. If other professionals are involved with the child, their input is of major importance and value. The information can be arranged under the following headings:

6.1 (Name of developmental disability or condition)

A description of the condition is given. If diagnostic criteria exist, they are described in relation to the specific course of the child's development.

6.2 Competency issues

Competency restrictions known from theory and practice and associated with the condition of the child are described, if their relevance is anticipated.

6.3 Accommodations

Measures to facilitate the limitations associated with the developmental challenges are discussed.

7. DISCUSSION

In this section a systematic integration of all relevant information (professional reports, collateral and other consultations, evaluation, completed parent and

² Van Niekerk, H. 2014. *Determining the Competency of Children with Developmental Delays to Testify in Criminal Trials*. Ch 3.

teacher questionnaires) is done. The following points of discussion can guide the exposition:

- Developmental challenges of the child
- Family environment in which child is raised and if relevant, how it relates to developmental aspects
- Current cognitive functioning and if applicable, implications for giving evidence
- Adaptive functioning (school, home and peer group)
- Testimonial competency: abilities of perception, memory, communication (including narrative ability) and, moral reasoning
- If applicable, contextual factors that need to be considered

8. CONCLUSION

A professional opinion with regard to the level of testimonial competency of the child is expressed.

9. RECOMMENDATION(S)³

- A child without basic testimonial competency should not be called to give evidence.
- Whether the child has limited or full competency to give evidence, an intermediary trained in working with persons with developmental challenges must be appointed.
- The restrictions that require facilitation will determine if other recommendations – accommodating the limitations associated with the developmental challenge(s) – are made.
- Section 163 applies to child witnesses who have an understanding of what it means to make a promise. The child-friendly oath is recommended for the affirmation procedure. Section 164 applies to child witnesses who do not have a conceptual understanding of “to promise”. It is recommended

³ Van Niekerk, H. 2014. *Determining the Competency of Children with Developmental Delays to Testify in Criminal Trials*. Ch 7.

that these witnesses be admonished to speak the truth before they proceed to give evidence. The alternative admonishment applies to those children who do not have a conceptual understanding of the truth. They are admonished to relate their personal knowledge only.

10. BIBLIOGRAPHY

This section reflects the "body of knowledge"⁴ on which the conclusion and recommendations are based.

11. APPENDICES

Brief descriptions of the various psychometric tests and/or questionnaires that were used during the assessment are attached to the report.

12. ABBREVIATED CURRICULUM VITAE

The contents of the CV confirms the qualification as "expert witness" by placing academic qualifications, expertise and experience on record.

⁴ Meintjes-Van der Walt 2003 *CARSA* 46.